

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1.
 - a. Whether there should be additional reimbursement for date of service 03/08/01?
 - b. The request was received on 03/04/02.

II. EXHIBITS

1. Requestor, Exhibit 1:
 - a. TWCC-60a/b
 - b. UB-92s
 - c. EOBs
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit 2:
 - a. TWCC-60a/b
 - b. UB-92
 - c. EOB
 - d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. The Carrier and the Provider have three day responses in the dispute packet. There is not a 14 day response from either, nor is there a signed sheet by the Carrier. All of the information submitted in the case file will be reviewed, and a decision rendered.

III. PARTIES' POSITIONS

1. Requestor:

“On March 8, 2001 surgery was performed on (Claimant) at the facility of Requestor. The facility charges were promptly billed to the worker’s compensation carrier, through its administrator (Carrier) and out of a total charge of \$19,020.00, the “Carrier” paid only \$2236.00. That amount reflects payment of far less than 50% and far below the “reasonable and customary” standard mandated by the Texas Worker’s Compensation Commission. (Provider) is routinely paid at or near the billed amount by other carriers doing business in the (Area) for identical procedures.” Provider is seeking additional reimbursement in the amount of \$16,784.00 for the date of service 03/08/01. The total charge for the claim is \$19,020.00. The Provider was reimbursed in the amount of \$2,236.00.

2. Respondent:
Carrier reimbursed the Provider \$2,236.00 for DOS in dispute at fair and reasonable rate.

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1&2), the only date of service eligible for review is 03/08/01.
2. The provider billed a total of \$19,020.00 on the date of service in dispute.
3. The carrier reimbursed a total of \$2,236.00 and their EOB has the denial "M – NO MAR REDUCED TO FAIR AND REASONABLE."

V. RATIONALE

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401 (a)(4) states ASCs, "shall be reimbursed at a fair and reasonable rate..."

Section 413.011 (d) of the Texas Labor Code states, "Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines."

The provider submitted reimbursement data (EOBs from various carriers) in an attempt to demonstrate fair and reasonable reimbursement for treatment of an injured individual of an equivalent standard of living in their geographical area. In light of recent SOAH decisions, showing what other carriers have paid an ASC is not evidence of effective medical cost control and is not evidence of amounts paid on behalf of managed care patients of ASC's or on behalf of other non-workers' compensation patients with an equivalent standard of living. The provider's documentation failed to meet the criteria of 413.011 (d).

Because there is no current fee guideline for ASC(s), the health care provider has the burden to prove that the fees paid by the carrier were not fair and reasonable. The provider submitted EOB(s) from other carriers, but the provider failed to meet the criteria of 413.011 (d). Therefore, no reimbursement is recommended.

The above Findings and Decision are hereby issued this 3rd day of July 2002.

Michael Bucklin, LVN
Medical Dispute Resolution Officer
Medical Review Division

MB/mb

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.